

# EXHIBIT A

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON
	)	PLEAS
	)	9 <sup>TH</sup> JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	

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MARK FULTZ	)	CASE NO.
	)	
Plaintiff,	)	Civil Action
vs.	)	
	)	
BROTHERS PROPERTY MANAGEMENT	)	<b>SUMMONS</b>
CORPORATION	)	
PATRIOTS ANNEX, LLC	)	
PATRIOTS POINT DEVELOPMENT	)	
AUTHORITY	)	
	)	
Defendant(s).	)	

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TO THE DEFENDANTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Camden, South Carolina

Dated: April 1, 2021.

	S/Anthony Brady
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	Plaintiff/Attorney for Plaintiff
Address:	Anthony J. Brady Jr.
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	Attorney ID. 15506.

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON
	)	PLEAS
	)	9 <sup>TH</sup> JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	

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MARK FULTZ	)	CASE NO.
	)	
Plaintiff,	)	Civil Action
vs.	)	
	)	
BROTHERS PROPERTY MANAGEMENT	)	<b>COMPLAINT</b>
CORPORATION	)	
PATRIOTS ANNEX, LLC	)	
PATRIOTS POINT DEVELOPMENT	)	
AUTHORITY	)	
	)	
Defendant(s).	)	

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Plaintiff, Mark Fultz residing at Apt. 106, NW Avenue, Margate, Florida.

by way of complaint against the Defendant states:

This Honorable Court has jurisdiction in that it is a Court of general jurisdiction and the Plaintiff has alleged a violation of federal law Title III of the Americans With Disabilities Act, 42 U.S.C. § 12101, et seq. Plaintiffs' claim is greater than \$15,000.00 and venue is proper in Charleston County because the cause of action arose in Charleston County and that Defendant resides in Charleston County.

#### STATEMENT OF THE CASE.

1. This suit is a private action brought by a Plaintiff, who uses a wheelchair as a result of for injunctive relief under the federal American with Disabilities Act, 42 USC 12182.

It would be wise to review the purposes of the access laws. First, the laws are about opportunity; as former Speaker of the House Gingrich has stated, "Mr. Chairman, throughout our history, our disabled citizens have not been provided the opportunity to participate in all phases

of society. Designed to provide 43,000,000 Americans with enhanced opportunities, this bill, then, embodies the conservative idea of opportunity.” 136 Cong. Rec. H2631 (daily ed. May 22, 1990) (Statement of Rep. Gingrich).

Second, the law is about the economic wellbeing of America. As former Attorney General Thornburgh testified, “We must recognize that passing comprehensive civil rights legislation protecting persons with disabilities will have direct and tangible benefits for our country. Certainly,...the mainstreaming of persons with disabilities will result...in more persons with disabilities working, in increasing earnings, in less dependence on the Social Security System for financial support, in increased spending on consumer goods, and increased tax revenues.” Testimony before House Committee on Civil and Constitutional Rights, Ser No. 101-58, Oct. 11, 1989, p. 811.

Third, the law is to end segregation. As Senator Kennedy stated, “The Americans With Disabilities Act will end this American apartheid. It will roll back the unthinking and unacceptable practices by which disabled Americans today are segregated, excluded, and fenced off from fair participation in our society by mindless biased attitudes and senseless physical barriers. 35 Cong. Rec. 54993 (daily ed. May 09, 1989) (Statement of Sen. Kennedy).

It is respectfully submitted that Senator Dole’s opinion that the access laws are about dignity, “Living independently and with dignity means opportunity to participate fully in every activity of daily life” 136 Cong. Rec. S9695 (daily ed. July 13, 1990) (Statement of Sen. Dole).

Plaintiffs seek an award of injunctive relief attorney fees and costs as a private attorney general. The Courts have explained the role of private enforcement of the access laws. The 9<sup>th</sup> Circuit explained, “For the ADA to yield its promise of equal access for the disabled it may be indeed necessary and desirable for committed individuals to bring serial litigation advocating the time when public accommodations will be compliant with the ADA”, D’Lil v. Best Western Encino- Lodge & Suites,

538 F.3d 1031 (9<sup>th</sup> Cir. 2008).

In Walker v. Guiffre, 200 N.J. 124, 156 (2012) in awarding an enhancement in a state case held, “Her obligation served not her sole interests, but the interests of any and all who had been or who might otherwise in the future have been denied access to the premises. The relief sought, both because it was equitable in nature and because it was designed to serve a broad social purpose weighs in favor of a continuous enhancement at the highest end of the spectrum.”

## **PARTIES**

2. Plaintiff, Mark Fultz resides at Apt 106, 231 NW. 76 Avenue, Margate, Florida.

He is a disabled man because of a stroke. As a result he cannot walk without a cane or a wheelchair.

Fultz qualifies as an individual with disabilities as defined by the federal Americans with Disabilities Act (ADA).

3. The Defendant Brothers Property Corporation own, lease, leases to, or operates a place of public accommodation called Harbor side at Charleston Harbor Resort and Marina located at 20 Patriots Point Road, Mt. Pleasant South Carolina. It is a public accommodation.

4. The Defendant PATRIOTS ANNEX, LLC and/or owns lease, leases to, or operates a place of public accommodation called Patriots Point Naval & Maritime Museum located in Mount Pleasant, South Carolina, It includes museums and exhibits and stadiums. It is a public accommodation

5. The Defendant PATRIOTS POINT DEVELOPMENT AUTHORITY own, lease, leases to, or operates a place of public accommodation called Patriots Point Naval & Maritime Museum located in Mount Pleasant, South Carolina, It includes museum exhibits and stadiums and a lessor of a hotel called Harborside at Charleston Harbor Resort and Marina located at 20 Patroits Point Road, Mt. Pleasant South Carolina. It is a public accommodation.

## **FIRST COUNT**

6. Plaintiff is a frequent traveler to Charleston, South Carolina because his family resides in the

area. He is disabled and uses a walker and a cane.

7. On Fultz was a quest at Defendants' PATRIOTS POINT DEVELOPMENT AUTHORITY and BROTHERS PROPERTY MANAGEMENT CORPORATION hotel on February 6, 2021-03-31 hotel and intends to be a patron and a patron at its against February 6, 2021.

8. His ability to use the services of the hotel was impaired because of lack of proper access to him and the disabled as a whole.

9. Specially, the hotel parking does not provide proper parking and routes for the disabled in that it is in that Fultz is a wheelchair user

it is more difficult for him to travel from point A to B, therefore he has been discriminated against under the ADA.

10. The route from the parking to the front entrance does not have an accessible route.

11. There are no accessible rooms provided for the disabled. The room provided does not have accessible bathrooms, showers, route and does not have inaccessible fixtures and other public services are not accessible,

12. The above violations are violations of the federal ADA Title III.

13. The discriminatory violations described above are not an exclusive list of the defendants' accessibility problems/violations. Plaintiff requires an inspection to identify all barriers.

14. The plaintiff intends to be a frequent patron of defendants, when it complies with the ADA including November, 2021. He will also return as a tester.

15. Plaintiff seeks equitable relief in that to create access is readily achievable if the above violations are pre-existing construction.

16. Plaintiff reserves the right to file administrative remedies for damages under South Carolina law.

Wherefore, plaintiff Fultz seeks:

- a) Injunctive relief under the ADA.
- b) Attorney fees and costs of suit under the ADA.

**SECOND COUNT.**

17. Plaintiff repeats the allegations of the first count.

18. Plaintiff also has been a patron on February 6, 2021 at Patriots Point including grounds Parking etc. . He was unable to see the ships because of the lack of access. He noticed the baseball field is not accessible and upon further inspection found the bathrooms ticket booths are not accessible.

19. Specifically, (1) parking for the disabled is on a slope; (2) parking spaces for the disabled lack access aisles; (3) accessible routes are not marked; and (4) the accessible routes includes illegal slopes and are in need of repair. Barriers blocked the route.

20. The above list is not exclusive. Plaintiffs reserve the right to amend the Complaint as discovery continues.

21. Plaintiff intends to return to said public facilities frequently.

22. Plaintiff also intends to return as a tester.

23. The lack of access is a violation of the federal Americans with Disability Act (ADA).

Date: April 1, 2021.

By: s/Anthony J. Brady, Jr.  
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